

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GENE POLK,

Petitioner,

Case Number: 07-CV-13089

v.

HONORABLE ARTHUR J. TARNOW

FRED MENIFEE,

Respondent.

**OPINION AND ORDER TRANSFERRING PETITION FOR WRIT
OF HABEAS CORPUS TO UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

Petitioner, Gene Polk, currently confined at the United States Penitentiary in Pollock, Louisiana, has filed a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241. In his petition, Petitioner challenges his 1995 convictions for intentional killing and several drug-related convictions. Those convictions were rendered in this District. *See United States v. Polk*, 2:92-cr-81127.

Generally, “claims asserted by federal prisoners that seek to challenge their convictions or imposition of their sentence shall be filed in the sentencing court under 28 U.S.C. § 2255 . . . and . . . claims seeking to challenge the execution or manner in which the sentence is served shall be filed in the court having jurisdiction over the prisoner’s custodian under 28 U.S.C. § 2241.” *Charles v. Chandler*, 180 F.3d 755, 756-57 (6th Cir. 1999). A federal prisoner may bring a claim challenging his or her conviction under § 2241 only if the remedy under § 2255 is inadequate or ineffective to test the legality of the defendant’s detention. *Id.* at 756-58. Petitioner maintains that § 2255 is inadequate and ineffective to challenge the legality of his

detention; and, therefore, that the pending petition is properly filed under § 2241.

Claims asserted by federal prisoners under 28 U.S.C. § 2241 shall be filed in the court having jurisdiction over the prisoner's custodian. Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004); Charles v. Chandler, 180 F.3d 753, 756-57 (6th Cir. 1999). Petitioner is incarcerated in Pollock, Louisiana. Thus, pursuant to 28 U.S.C. § 1631, the Court shall transfer the petition to the court having jurisdiction over Petitioner's custodian, the United States District Court for the Western District of Louisiana.

Accordingly, **IT IS ORDERED** that this case be **TRANSFERRED** to the United States District Court for the Western District of Louisiana.

S/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: August 3, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 3, 2007, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Secretary